

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL REVISION APPLICATION NO.168 OF 2019

[Punjab s/o Changdev Sable and others .vs. State of Maharashtra]

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Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

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Court's or Judge's orders

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Shri H.M. Mohta, Advocate for the petitioners,
Shri I.J. Damle, APP for the respondent-State.

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CORAM : MRS. SWAPNA JOSHI, J.

DATED : AUGUST 20, 2019.

The petitioners have prayed for quashing and setting aside order dated 24.06.2019 passed below Exh.61 by the Additional Sessions Judge, Akola.

The learned counsel for the petitioners contended that earlier the charge was framed by the learned Additional Sessions Judge for the offence under section 304-B r/w 34 of the Indian Penal Code. However, after examining five witnesses and more particularly the Medical Officer witness no.5, the learned trial Judge has framed the charge under section 302 of the Indian Penal Code. According to the learned counsel for the petitioners the said charge is not properly framed by the learned trial Judge when already there was a charge framed under section 304-B of the Indian Penal Code.

The learned APP contended that the learned trial Judge has rightly framed the said charge based on observations made by the Medical Officer in Column No.19 of the autopsy report.

Heard both the sides. A perusal of the case papers more particularly the postmortem report shows that there was hematoma over left temporal area ad-measuring 4 x 3 cm, red brown in colour, contusion over high parietal area extending to occipital area, ad-measuring 16 x 9 cm, red brown colour, muscle deep and the skull was intact. It appears that since the Medical Officer has explained the internal injuries in Column No.19 of the autopsy report, the learned trial Judge has come to the conclusion that it may be a case of murder instead of unnatural death of the deceased.

In any case, I do not find any illegality or perversity in framing of the charge by the learned trial Judge at this stage. However, it should be in the alternative of charge under Section 304-B of the Indian Penal Code, which is already framed. Moreover, the petitioners have an opportunity to cross-examine the said witnesses. At the midst of the trial, I do not wish to observe anything more on the merits of the case. Suffice it to say that the learned trial judge is at liberty to frame the charge under Section 302 of the Indian Penal Code in the alternative of the charge already framed under Section 304-B of the Indian Penal Code.

Criminal Revision Application needs to be dismissed and it is accordingly dismissed.

JUDGE